



**UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA**

In re:

GENERAL ORDER 02-02

CHAPTER 11 PROCEDURES

**(a) APPLICABILITY**

Except as provided herein, this general order relates to chapter 11 cases in all divisions of the bankruptcy court, including as to prospective matters, cases pending as of the effective date. The definitions set forth in the Local Bankruptcy Rules effective July 1, 1998, and any amendments thereafter, apply to all terms used in this general order. To the extent that this general order conflicts with any provisions of the Local Bankruptcy Rules, the provisions of this general order shall prevail. In all other respects, the Local Bankruptcy Rules shall apply in all chapter 11 cases.

1 **(b) MOTIONS REQUIRING EMERGENCY OR EXPEDITED RELIEF**

2 (1) Scope. The motions governed by this general order include all motions  
3 requiring an order on less than 2 court days notice. If a motion requires  
4 such emergency or expedited relief:

5 (A) Obtaining Hearing Date and Time. A hearing date and time may  
6 be obtained by telephoning the member of the staff of the court  
7 designated by the judge to schedule emergency or expedited  
8 hearings. The judge has discretion at the hearing to hear the  
9 matter or continue it to a different date and time. The identity of the  
10 designated member of the judge's staff shall be available from the  
11 clerk's office and posted on the court's Internet website.

12 (B) Contents of Motion. Each such motion shall begin with a summary  
13 not more than 1 page in length explaining what relief is requested  
14 and the reasons why granting such relief is appropriate.

15 (C) Filing the Motion. The motion shall be filed as soon as possible,  
16 but no later than 2 hours prior to the hearing. In the event that the  
17 motion is filed the day of the hearing, the movant shall submit with  
18 its motion evidence in the form of declarations setting forth the  
19 reasons why the motion could not have been filed earlier. Upon  
20 filing, a filed copy of the motion shall be delivered directly to  
21 chambers. In addition to applicable requirements of Local  
22 Bankruptcy Rule 9013-1(a)(4), the motion shall be accompanied by  
23 declarations of competent witnesses under penalty of perjury that:

24 (i) State with specificity the nature of the emergency and why  
25 there is a need for expedited treatment; and

26 (ii) Support the granting of the motion itself on the merits. No

1 separate motion for an expedited hearing under this rule is  
2 required.

3 (D) Scope of and Means for Notice Required. The moving party shall  
4 serve notice of the motion and hearing by personal delivery,  
5 messenger, telephone, fax, e-mail, or other proper mode of service  
6 to the debtor; debtor's attorney; any trustee appointed in the case;  
7 the United States trustee; the creditors' committee and its counsel,  
8 if any, or holders of the 20 largest unsecured claims if no  
9 committee has been appointed; all parties who have requested  
10 special notice; holders of secured claims; and co-owners or other  
11 parties with a specific interest in the property or matter at issue.

12 (E) Service of the Motion. The motion shall be served as soon as  
13 possible by delivering a copy to any party so requesting and to all  
14 parties as required by Federal Rule of Bankruptcy Procedure 4001.

15 (F) Response to Motion to be Presented at the Hearing. Any  
16 response, written or oral, including any opposition or objection to  
17 the motion may be presented before or at the time of the hearing  
18 on the motion.

19 (G) Proof of Notice to be Presented at the Hearing. At the hearing, the  
20 moving party shall present to the court a declaration of the efforts  
21 made to comply with the notice and service requirements of this  
22 general order. The declaration shall describe the efforts made to  
23 notify opposing parties and their counsel of the time and place of  
24 the hearing and the substance of the motion.

25 (2) Specific Types of Motions. The foregoing procedures govern the following  
26 types of motions:

- 1 (A) Motions to Limit Notice.
- 2 (B) Motions to Extend Time to File Schedules and Statements of
- 3 Financial Affairs.
- 4 (C) Utility Motions pursuant to 11 U.S.C. § 366.
- 5 (D) Motions to Establish Procedures for Handling Multiple Reclamation
- 6 Claims.
- 7 (E) Requests For Regularly Scheduled Hearing Dates. Upon request
- 8 of a debtor, the court may establish a fixed date and time as the
- 9 scheduled hearing date and time for hearing all motions and other
- 10 matters in a chapter 11 case. Once ordered, the dates and time,
- 11 and exceptions, if any, will be made available through the clerk's
- 12 office and will be posted in advance on the court's Internet website.
- 13 (F) Motions to Pay Prepetition Payroll and to Honor Prepetition
- 14 Employment Procedures. Such motions must be supported with
- 15 evidence that establishes:
- 16 (i) The employees are still employed;
- 17 (ii) The necessity for payment;
- 18 (iii) The benefit of the procedures;
- 19 (iv) The prospect of reorganization;
- 20 (v) Whether the employees are insiders;
- 21 (vi) Whether the employees' claims are within the limits
- 22 established by 11 U.S.C. § 507; and that
- 23 (vii) The payment will not render the estate administratively
- 24 insolvent.
- 25 (G) Motions to Honor and Comply with Customer Obligations and
- 26 Deposits. Such motions must be supported by evidence that relief

1 is essential to business operations and customer confidence or that  
2 the estate may suffer postpetition damages that would prejudice  
3 creditors, the reorganization, or the value of property of the estate.

4 (H) Motions to Pay Prepetition Taxes. Such motions must be  
5 supported by evidence that establishes:

- 6 (i) The necessity for payment;
- 7 (ii) The prospect of reorganization;
- 8 (iii) The means to pay;
- 9 (iv) That the taxes to be paid are entitled to priority pursuant to  
10 11 U.S.C. § 507; and that
- 11 (v) The payment will not render the estate administratively  
12 insolvent.

13 (I) Motions for Emergency Use of Cash Collateral, Financing and/or  
14 Cash Management. See section (c) below.

15 (J) Motions for Orders Establishing Procedures for Sale of All or  
16 Substantially All of Estate's Assets. See section (d) below.

17 (K) Other Motions Where Special Circumstances Exist. Such motions  
18 must demonstrate with evidence that exigent circumstances exist  
19 justifying an immediate hearing.

20 **(c) MOTIONS FOR EMERGENCY USE OF CASH COLLATERAL, FINANCING**  
21 **AND/OR CASH MANAGEMENT**

22 (1) Motions. Motions requesting approval of cash collateral, financing and/or  
23 cash management under 11 U.S.C. §§ 363 and/or 364 must identify  
24 whether the proposed form of order and/or underlying cash collateral  
25 stipulation or loan agreement contains any provision of the type indicated  
26 below, including:

- 1 (A) Provisions that grant cross-collateralization protection (other than  
2 replacement liens or other adequate protection) to the prepetition  
3 secured creditors (i.e., clauses that secure prepetition debt by  
4 postpetition assets in which the secured creditor would not  
5 otherwise have a security interest by virtue of its prepetition  
6 security agreement or applicable law);
- 7 (B) Provisions or findings of fact that bind the estate or all parties in  
8 interest with respect to the validity, perfection, or amount of the  
9 secured creditor's prepetition lien or debt or the waiver of claims  
10 against the secured creditor;
- 11 (C) Provisions that seek to waive the estate's rights under 11 U.S.C.  
12 § 506(c);
- 13 (D) Provisions that grant to the prepetition secured creditor liens on the  
14 debtor's claims and causes of action arising under 11 U.S.C.  
15 §§ 544, 545, 547, 548, or 549.
- 16 (E) Provisions that deem prepetition secured debt to be postpetition  
17 debt or that use postpetition loans from a prepetition secured  
18 creditor to pay part or all of that secured creditor's prepetition debt,  
19 other than as provided in 11 U.S.C. § 552(b);
- 20 (F) Provisions that provide disparate treatment for the professionals  
21 retained by a creditors' committee from that provided for the  
22 professionals retained by the debtor with respect to a professional  
23 fee carve out; and
- 24 (G) Provisions that prime any secured lien must:
- 25 (i) Identify the location of any such provision in the proposed  
26 form of order, cash collateral stipulation, and/or loan

1 agreement; and

2 (ii) Contain specific justification for priming.

3 (2) Summary of Essential Terms. The motion must include a summary of the  
4 essential terms of the proposed use of cash collateral and/or financing  
5 (e.g., the interim borrowing limit, the maximum borrowing available on a  
6 final basis, borrowing conditions, interest rate, maturity dates, events of  
7 default, use of funds limitations, and protections afforded under 11 U.S.C.  
8 §§ 363 and 364).

9 (3) Use of Form for Cash Collateral and/or Financing Stipulations. Each  
10 motion requesting approval of a stipulation for use of cash collateral  
11 and/or financing must be accompanied by court-approved form F 4001-2,  
12 Statement Pursuant to Local Bankruptcy Rule 4001-2, or a statement  
13 consistent with court-approved form F 4001-2.

14 (4) Interim Relief. The court may grant interim relief to prevent immediate  
15 and irreparable harm to the estate pending a final hearing. In the  
16 absence of extraordinary circumstances, the court will not approve interim  
17 orders that include any of the provisions described in subsection (1)(A)  
18 above.

19 (5) Final Orders. A final order will be entered only after notice and a hearing  
20 pursuant to Federal Rule of Bankruptcy Procedure 4001(b). Ordinarily,  
21 the final hearing will be held at least 10 days after the appointment of the  
22 creditors' committee contemplated by 11 U.S.C. § 1102.

23 **(d) MOTIONS FOR ORDERS ESTABLISHING PROCEDURES FOR THE SALE OF**  
24 **ALL OR SUBSTANTIALLY ALL OF THE ESTATE'S ASSETS**

25 (1) Timing of Hearing. A hearing on a Motion to Establish Procedures for the  
26 Sale of All or Substantially All of the Estate's Assets ("Sale Procedure

- 1 Motion”) may be scheduled on 5 court days notice to applicable parties.
- 2 (2) Procedures. The procedures for obtaining a hearing on such motion shall
- 3 be governed by section (b) above.
- 4 (3) Contents of Notice. The notice must describe the proposed bidding
- 5 procedures and include a copy of the proposed purchase agreement. If
- 6 the purchase agreement is not available, the moving party shall describe
- 7 the terms of the sale proposed and when a copy of the actual agreement
- 8 will be available and from whom it may be obtained. The notice must
- 9 describe the marketing efforts undertaken, the anticipated marketing plan,
- 10 or explain why no marketing is required. The notice must provide that
- 11 opposition shall be due on or before 1 court day prior to the hearing.
- 12 (4) Opposition. Any opposition and accompanying memorandum of points
- 13 and authorities and declarations shall be filed and served at least one 1
- 14 court day prior to the hearing. Service of the opposition pleadings shall be
- 15 by e-mail, fax, or personal delivery. A filed copy of the opposition shall be
- 16 delivered directly to chambers the same day as filed.
- 17 (5) Service of the Motion. The motion shall be delivered as soon as possible
- 18 to any party requesting a copy.
- 19 (6) Scheduling Hearing on the Sale. A date and time for a hearing on the
- 20 motion to approve the sale itself may be obtained at or prior to the hearing
- 21 on the Sale Procedure Motion. Such hearing shall be scheduled, if
- 22 practicable, no more than 30 days following the hearing on the Sale
- 23 Procedure Motion.
- 24 (7) Break-Up Fees. If a break-up fee or other form of overbid protection is
- 25 requested in the Sales Procedure Motion, the motion must be supported
- 26 by evidence establishing:



1 (A) That such a fee is likely to enhance the ultimate sale price; and

2 (B) The reasonableness of the fee.

3 **(e) MOTIONS TO EMPLOY PROFESSIONALS**

4 Each motion shall specify and highlight whether the employment is proposed  
5 pursuant to 11 U.S.C. § 327 or 11 U.S.C. § 328. Professionals may be  
6 employed on either an hourly rate basis, a contingency or success fee basis, or a  
7 combination thereof. If the court approves the terms of the professional's  
8 employment, including without limitation, the professional's hourly rate, monthly  
9 fee, and/or contingency or success fee, the court shall not reconsider such terms  
10 of employment at a subsequent time. The preceding sentence shall in no way  
11 limit the court in exercising its discretion pursuant to 11 U.S.C. § 330 (a) (2). If  
12 the court determines that a hearing is necessary to approve a professional's  
13 terms of employment, then the court shall set such hearing within 30 days of the  
14 expiration of the 15-day period of the notice of the motion to employ. Upon  
15 setting such hearing, the court also shall inform the professional as to the  
16 specific issues that the professional needs to address at the hearing. The  
17 professional may file supplemental pleadings addressing such issues not less  
18 than 3 court days prior to the hearing.

19 **(f) MOTIONS TO APPROVE COMPENSATION PROCEDURES, INCLUDING**  
20 **MONTHLY DRAW-DOWNS AND CONTINGENCY OR SUCCESS FEE**  
21 **AGREEMENTS**

22 Professionals may request approval for and modifications of draw-down  
23 procedures and an order allowing payment of compensation more frequently  
24 than once every 120 days.

25 **(g) MOTIONS FOR JOINT ADMINISTRATION OF CASES PENDING IN THE**  
26 **SAME COURT**

1 If 2 or more petitions are pending before the same judge by or against a  
2 partnership and any of its general partners, 2 or more general partners, or a  
3 debtor and an affiliate, the court may, upon motion, order a joint administration of  
4 the estates, without notice or hearing. An order of joint administration may be  
5 entered upon the filing of a motion for joint administration, together with a  
6 declaration establishing that the joint administration of the respective debtors'  
7 estates is warranted, will ease the administrative burden for the court and the  
8 parties, and protect creditors of the different estates against potential conflicts of  
9 interest. Joint administration pursuant to this general order shall not effect a  
10 substantive consolidation of the respective debtors' estates.

11 **(h) PREPACKAGED PLANS**

12 A hearing on confirmation of a plan upon which voting was conducted before  
13 commencement of the case pursuant to 11 U.S.C. § 1126 (b) shall be  
14 scheduled, if practicable, no more than 30 days after the order for relief.

15 **(i) SEVERANCE COMPENSATION AND/OR EMPLOYEE INCENTIVE MOTIONS**

16 (1) Notice. Motions for approval of severance compensation packages  
17 and/or employee incentive programs shall be heard on regular notice,  
18 absent exigent circumstances.

19 (2) Standard. Such motions must be supported with evidence that  
20 establishes:

- 21 (A) That the employees are still employed;
- 22 (B) Such severance compensation package and/or stay bonuses are  
23 necessary for the retention of personnel essential to a successful  
24 reorganization;
- 25 (C) Whether the employees are insiders; and
- 26 (D) How the proposed severance compensation package and/or stay

bonuses are beneficial to the estate.

**(j) ELECTRONIC TRANSMISSION**

Whenever a party is required by these rules or otherwise to serve a notice, a pleading, or a copy of an order and another party has requested service by electronic transmission, the sender may serve the notice, pleading, or order by electronic transmission. Service will be deemed to be completed upon receipt by the sender of an electronic confirmation of the electronic transmission.

Dated: April 17, 2002



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GERALDINE MUND  
Chief Judge, United States Bankruptcy Court